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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,198	07/14/2003	Abayomi I. Owei	CEDE 2111	6367

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SENNIGER POWERS
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

EXAMINER

GREEN, ANTHONY J

ART UNIT PAPER NUMBER

1755

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

6

Office Action Summary	Application No. 10/619,198	Applicant(s) OWEI ET AL.	
	Examiner Anthony J. Green	Art Unit 1755	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5, 14-25, 32-38, 40-44 and 62-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 40-44 is/are allowed.
- 6) ☒ Claim(s) 2-5, 14-25, 32-38 and 62-64 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This office action is in response to the amendment after final submitted on 09 June 2006. Claims 2-5, 14-25, 32-38, 40-44 and 62-64 are currently pending. In light of the discovery of new art the finality of the last office action is withdrawn. New rejections appear below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 18 and 36 are rejected under 35 U.S.C. 102(e) as being anticipated by Wang et al (US Patent No. 6,569,359 B1).

The reference teaches, in claim 1, and the example, a composition for planarizing a substrate, comprising: between about 0.1 vol % and about 1 vol % of polyethylene oxide or polyethylene oxide derivative; between about 0.3 vol % and about 3 vol % of ethylenediamine; between about 0.5 vol % and about 5.0 vol % of hydrogen peroxide; between about 0.02 vol % and about 0.1 vol % of benzotriazole; about 5 vol % of isopropyl alcohol; phosphoric acid to adjust a pH level between about 4 and about 8; and water.

The instant claims are met by the reference. While the reference does not recite that the composition is an adhesion promoting composition it is well settled that when a claimed composition appears to be substantially the same as a composition disclosed in the prior art, the burden is properly upon the applicant to prove by way of tangible evidence that the prior art composition does not necessarily possess characteristics attributed to the CLAIMED composition. In re Spada, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Circ. 1990); In re Fitzgerald, 619 F.2d 67, 205 USPQ 594 (CCPA 1980); In re Swinehart, 439 F.2d. 2109, 169 USPQ 226 (CCPA 1971).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-5, and 14-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent Specification No. 03-079778A.

The reference teaches an etchant comprising sulfuric acid, hydrogen peroxide, lower aliphatic alcohol and/or mono or polyethylene glycol, benzotriazole and/or tolyltriazole. The examiner has requested a formal translation of this document which will be forwarded to applicant upon receipt.

The instant claims are obvious over the reference. While the reference does not recite that the composition is an adhesion promoting composition it is well settled that when a claimed composition appears to be substantially the same as a composition disclosed in the prior art, the burden is properly upon the applicant to prove by way of tangible evidence that the prior art composition does not necessarily possess characteristics attributed to the CLAIMED composition. In re Spada, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Circ. 1990); In re Fitzgerald, 619 F.2d 67, 205 USPQ 594 (CCPA 1980); In re Swinehart, 439 F.2d. 2109, 169 USPQ 226 (CCPA 1971). As for the alcohols, the lower aliphatic alcohol and/or mono or polyethylene glycols renders obvious the instantly claimed alcohols absent evidence showing otherwise as lower aliphatic alcohol would encompass monohydric, primary, secondary and tertiary alcohols. As for the oligomeric alcohols it is believed that the references disclosure of the use of mono or polyethylene glycols would render obvious the use of these alcohols. As for the corrosion inhibitor the triazoles of the reference are all well known corrosion inhibitors.

6. Claims 2 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent Specification No. 51-027819A.

The reference teaches a surface treating solution for copper alloy comprising 5 aminotetrazol, mineral acid, hydrogen peroxide and a stabilizer such as an alcohol such as ethanol, an amine or a phenol. The examiner has requested a formal translation of this document which will be forwarded to applicant upon receipt.

The instant claims are obvious over the reference. While the reference does not recite that the composition is an adhesion promoting composition it is well settled that when a claimed composition appears to be substantially the same as a composition disclosed in the prior art, the burden is properly upon the applicant to prove by way of tangible evidence that the prior art composition does not necessarily possess characteristics attributed to the CLAIMED composition. In re Spada, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Circ. 1990); In re Fitzgerald, 619 F.2d 67, 205 USPQ 594 (CCPA 1980); In re Swinehart, 439 F.2d. 2109, 169 USPQ 226 (CCPA 1971). As for the alcohols, the ethanol of the reference renders obvious the use of monohydric and primary alcohols. As for the corrosion inhibitor the aminotetrazol of the reference is a well known corrosion inhibitor.

7. Claims 1, 14, 18, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goltz (US Patent No. 4,859,281).

The reference teaches, in claim 1, an aqueous etchant solution comprising a mixture of an acid selected from the group consisting of sulfuric acid, nitric acid etc,

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hydrogen peroxide, and water; the improvement which comprises incorporating an accelerating effective amount of both tolyltriazole and either an aliphatic water soluble monoalcohol or a glycol monoether to provide a faster etching rate.

The instant claims are obvious over the reference. While the reference does not recite that the composition is an adhesion promoting composition it is well settled that when a claimed composition appears to be substantially the same as a composition disclosed in the prior art, the burden is properly upon the applicant to prove by way of tangible evidence that the prior art composition does not necessarily possess characteristics attributed to the CLAIMED composition. In re Spada, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Circ. 1990); In re Fitzgerald, 619 F.2d 67, 205 USPQ 594 (CCPA 1980); In re Swinehart, 439 F.2d. 2109, 169 USPQ 226 (CCPA 1971). As for the alcohols, the reference teaches that the alcohols may be selected from isopropanol, n-butyl alcohol and t-butyl alcohol which renders obvious the instantly claimed alcohols absent evidence showing otherwise as these alcohols would encompass monohydric, primary, secondary and tertiary alcohols. As for the corrosion inhibitor the references teaches the addition of tolyltriazole which is a well known corrosion inhibitors.

8. Claims 32-38, and 62-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al (US Patent No. 6,569,349 B1).

The reference was discussed previously. Further the reference teaches in column 4, lines 42+, In one aspect of the invention, one or more surfactants and a polar solvent are added to a chemical mechanical polishing composition. Such a composition

includes the one or more surfactants, one or more chelating agents, one or more oxidizers, one or more corrosion inhibitors, the polar solvent, and deionized water. The composition may also further include one or more pH adjusting agents and/or abrasive particles. In one embodiment of the composition, only a polar solvent is added.

Alternatively, only the one or more surfactants are added to the composition.

Surfactants useful in the composition include those which decrease the removal rate of dielectric materials. The surfactants may include anionic surfactants, cationic surfactants, non-ionic, and combinations thereof.

The instant claims are obvious over the reference. While the reference does not recite that the composition is an adhesion promoting composition it is well settled that when a claimed composition appears to be substantially the same as a composition disclosed in the prior art, the burden is properly upon the applicant to prove by way of tangible evidence that the prior art composition does not necessarily possess characteristics attributed to the CLAIMED composition. In re Spada, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Circ. 1990); In re Fitzgerald, 619 F.2d 67, 205 USPQ 594 (CCPA 1980); In re Swinehart, 439 F.2d. 2109, 169 USPQ 226 (CCPA 1971). While the reference does not teach the use of the same surfactants it does teach that the composition may comprise anionic, non-ionic or cationic surfactants. The surfactants recited in the instant dependent claims and in claims 62-64 are all well known types of anionic and non-ionic surfactants and accordingly their use is obvious absent evidence showing otherwise.

Claim Objections

9. Claim 5 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim, or amend the claim to place the claim in proper dependent form, or rewrite the claim in independent form. This claim contains the same limitation recited in claim 3, the claim from which it depends.

Allowable Subject Matter

10. Claims 40-44 are allowed.


11. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record, which is the most pertinent art found, fails to teach and/or fairly suggest the instant invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony J. Green whose telephone number is 571-272-1367. The examiner can normally be reached on Monday-Thursday 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Anthony J. Green
Primary Examiner
Art Unit 1755

ajg
June 20, 2006